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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,486	12/07/2001	William Frantz	PD-201169	6438

7590 07/11/2006

Hughes Electronics Corporation  
Patent Docket Administration  
P.O. Box 956  
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El Segundo, CA 90245-0956

EXAMINER
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LU, SHIRLEY

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/010,486	<b>Applicant(s)</b> FRANTZ, WILLIAM	
	<b>Examiner</b> Shirley Lu	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Response to Arguments**

Applicant's arguments filed 4/20/06 have been fully considered but they are not persuasive.

a. Applicant argues that Zigmond does not specifically disclose 'a sensor generating a using message indicative of a subscriber using the broadcast programming.'

Zigmond indeed discloses 'a sensor generating a using message indicative of a subscriber using the broadcast programming' (triggering event, criteria used [7, 25-36]; [8, 29-54]).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**1. Claim(s) 1-19 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond (6698020).**

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As to claim 1, Zigmond discloses a method in a system:

A communication system for delivering audio and/or video message to a subscriber, comprising: a transmitter for transmitting broadcast programming and audio and/or video messages to a subscribers as separate data streams (fig. 4, elements 62, 66; [8, 1-48]);

at least one communication apparatus having receiver circuitry for receiving said audio and/or video messages data stream separate from receiving the data stream containing said broadcast programming, each subscriber having at least one communication apparatus (fig. 4, element 60; [8, 1-37]), said at least one communication apparatus further including:

a processor operatively connected to a mass storage device for processing and storing said received audio and/or video messages to form stored audio and/or video (fig. 4, element 62; [8, 1-11]),

a sensor generating a using message indicative of a subscriber using the broadcast programming wherein said processor accesses said stored audio and/or video messages for display in place of the broadcast programming being currently used by the subscribers in response to the using message ([7, 26-36]; [8, 29-54]).

As to claim 2,

said processor displays said stored audio and/or video messages based upon detecting a trigger [8, 29-54].

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As to claim 3,

said trigger comprises instructions received together with the audio and/or video messages or from instructions embedded in the broadcast content or both [8, 29-54].

As to claim 4,

said transmitter further includes: an uplink facility for digitally encoding and multiplexing said audio and/or video messages into a packetized data stream, and for encoding and modulating said data packet into a suitable frequency band for reception; and a satellite for receiving said data packet via an airlink from the uplink facility, and for transmitting the data packet to said at least one communication apparatus (fig. 7; [17, 50] to [18, 37]).

As to claim 5,

said audio and/or video messages are advertisements or commercials provided by content providers and intended for targeted subscribers ([18, 29-37]; [6, 1-11]).

As to claim 6,

content providers are assured that an advertisement or commercial reaches the desired subscribers as the content provider knows the targeted subscriber, when the advertisement or commercial will be provided on a device operatively connected to the subscriber's communication apparatus, and the amount or length of time the advertisement or commercial is to be provided to the subscriber ([10, 47-64]; [9, 21-38]; [9, 55] to [10, 3]).

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As to claim 7,

the communication apparatus is a receiver or a set top box ([10, 3-15]; [7, 37-49]).

As to claim 8,

(see claim 1).

As to claim 9,

(see claim 2).

As to claim 10,

(see claim 3).

As to claim 11,

(see claim 4).

As to claim 12,

(see claim 5).

As to claim 13,

(see claim 6).

As to claim 14,

(see claim 1).

As to claim 15,

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(see claim 2).

As to claim 16,

(see claim 3).

As to claim 17,

(see claim 4).

As to claim 18,

(see claim 5).

As to claim 19,

(see claim 6).

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Lu whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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